

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

10 RICHARD MOTTASHED,) CASE NO. CV 16-1296-CAS (PJW)
11 Petitioner,)
12 v.)
13 JAMES McDONNELL, SHERIFF, ET AL.,) {PROPOSED} ORDER DISMISSING
14 Respondents.) HABEAS CORPUS PETITION AND
DENYING CERTIFICATE OF
APPEALABILITY

In February 2016, Petitioner filed a petition for a "preemptive writ" of habeas corpus, challenging his January 2015 arrest and subsequent detention in Metropolitan State Hospital in Norwalk, California. (Petition at 2.) He contended that he was arrested on false charges and that his continuing detention violated his right to a fair and speedy trial. (Petition at 2, 3.) On March 2, 2017, Respondent filed a motion to dismiss the Petition on the ground that it was moot in light of the fact that the criminal charges had been dropped. For the following reasons, the Petition is dismissed with prejudice.

26 In January 2015, Petitioner was arrested for an attempted
27 stabbing. (See Motion, Exh. 18, at 136.) On February 2, 2015, the
28 superior court halted criminal proceedings and ordered that Petitioner

1 be transferred to the mental health court after his counsel declared a
2 doubt as to his competency. (Motion, Exh. 4, at 41-42.) On April 20,
3 2015, the medical examiner certified that Petitioner was not
4 competent. The court ordered the criminal proceedings suspended and
5 committed Petitioner to a state hospital for treatment. (Motion, Exh.
6 5, at 45; Exh. 6 at 49-50.) In July 2015 and February 2016, after
7 reviewing doctors' reports, the court again ordered that Petitioner be
8 held and treated at the state hospital. (Motion, Exhs. 10, 12.) In
9 April 2016, the court ordered the county Public Guardian to
10 investigate whether a conservatorship was appropriate for Petitioner.
11 (Motion, Exh. 15, at 98.) In October 2016, the Public Guardian filed
12 for conservatorship, which the court granted. (Motion, Exh. 21, at
13 154; Exh. 22, at 156.) In December 2016, the court terminated
14 competency proceedings after finding that there was no substantial
15 likelihood that Petitioner would be restored to competency by his
16 maximum commitment date. (Motion, Exh. 23, at 159.) On February 7,
17 2017, the superior court dismissed Petitioner's criminal case.
18 (Motion, Exh. 24, at 162.)¹

19 The Court has a duty to screen habeas corpus petitions before
20 ordering service on a respondent. See *Mayle v. Felix*, 545 U.S. 644,
21 656 (2005). In doing so, if it plainly appears from the face of a
22 petition that a petitioner is not entitled to relief, the Court can
23 dismiss the petition at the outset. See Rule 4, Rules Governing
24 § 2254 Cases.

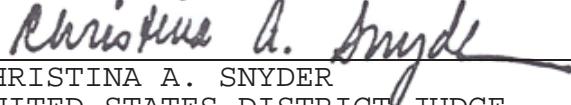
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26 ¹ In March 2016, Petitioner filed a pro se civil rights action
27 in the district court, alleging that he was being held without a
28 hearing and medicated against his will. (*Mottashed v. Julia, et al.*,
CV 16-1571-CAS (PJW), March 7, 2016 Complaint.) The Court thereafter
appointed counsel for Petitioner. On March 23, 2017, the superior
court determined that a guardian ad litem should be appointed for
Petitioner in his civil rights action in federal court. (*Mottashed v.*
Julia, et al., CV 16-1571-CAS (PJW), Plaintiff's April 3, 2017 Status
Report.)

1 Petitioner contends that he was arrested on false charges and
2 denied the right to a speedy trial. (Petition at 2-3.) Now that the
3 state court has dismissed the criminal charges and he is no longer
4 being held in custody on those charges, however, there is no relief
5 available to him in habeas corpus. See *Burnett v. Lambert*, 432 F.3d
6 996, 999 (9th Cir. 2005) (dismissing habeas petition as moot where
7 court could not redress petitioner's injury with a favorable
8 decision); see also *Smith v. Fresno County Superior Court*, 2013 WL
9 1314694, at *2 (E.D. Cal. April 1, 2013) (holding speedy trial claims
10 rendered moot by dismissal of criminal charges); see generally *Spencer*
11 *v. Kemna*, 523 U.S. 1, 7 (1998) (holding Constitutional "case-or-
12 controversy requirement" means that a party "must have suffered . . .
13 an actual injury . . . likely to be redressed by a favorable judicial
14 decision" if case is not to be dismissed as moot).²

15 Finally, because Petitioner has not made a substantial showing of
16 the denial of a constitutional right, a certificate of appealability
17 will not issue in this action. See 28 U.S.C. § 2253(c)(2); Fed. R.
18 App. P. 22(b); *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003).

19 IT IS SO ORDERED

20 DATED: May 9, 2017.

21 
CHRISTINA A. SNYDER
22 UNITED STATES DISTRICT JUDGE

23 Presented by:

24 
PATRICK J. WALSH
25 UNITED STATES MAGISTRATE JUDGE
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27
28 ² The Court need not and does not address Respondent's
contention that the Petition should be dismissed for failure to
exhaust state remedies.